THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.2418 of 2005

Dated:14.12.2006

BETWEEN:

Muddada Sri Ramulu.

… Petitioner

and

The Mandal Revenue Officer and others.

… Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.2418 of 2005

ORDER:

This Writ Petition is filed seeking a writ of mandamus declaring the action of the respondents in interfering with the peaceful possession of the land of the petitioner in T.S.No.360/1 situated at Maharajapeta North Ward, Vizianagaram, as illegal and arbitrary.

This Court while admitting the Writ Petition granted interim orders of *status quo* as to the nature and possession of the land admeasuring Acs.2.05 cents in T.S.No.360/1. The respondents have now moved an application for vacating the interim order, but the matter is heard finally as the controversy is in a narrow compass.

It is the case of the petitioner that he is the absolute owner of the subject land and his name is also entered in the revenue records and pattadar pass books were issued. In 1994 a part of the land admeasuring about 0.19350 square feet in T.S.No.360/1B was acquired for widening the road by Visakhapatnam Urban Development Authority and compensation of Rs.1,38,460/- was paid to the petitioner. The first respondent issued a notice dated 18.12.2004 calling upon the petitioner to appear for an enquiry on 20.12.2004 with all the necessary documents. In the said notice, the petitioner was informed that a complaint is received that the petitioner is in unauthorised possession of land in T.S.Nos.366/2 to 7 and 166/1 and

2. The petitioner statedly submitted necessary documents. In spite of the same, it is alleged that the respondents threatened to dispossess the petitioner.

In the counter affidavit, the allegations in the writ affidavit are denied. It is stated that the land in T.S.No.360 of Maharajapeta North Ward is hill poramboke belonging to the Government. The petitioner earlier worked as Head Karnam of Vizianagaram Town and with an intention to grab the land, incorporated his name in the revenue records as pattadar. He also unauthorisedly carried quarry operations of removing the stone from the area. Therefore, a notice was issued in connection with the enquiry. The land is not fit for cultivation, and therefore, a proposal is mooted to assign the land to eligible poor persons. The allegation that the respondents are trying to evict the petitioner is denied and stated that respondents would follow due process of law before initiating action for eviction of the petitioner.

After hearing the learned Counsel for the petitioner and the learned Assistant Government Pleader for Revenue (Assignment), it becomes clear that the notice issued to the petitioner in relation to enquiry into the encroachment of land in T.S.Nos.366/2 to 7 and 166/1 and 2 is nothing to do with the land in possession of the petitioner in T.S.No.360/1. This is seriously disputed. The possession of land is also not disputed and the respondents admit that unless and until due process of law is followed they would not evict the petitioner. The same is recorded.

The Writ Petition is accordingly disposed of observing that unless and until due process of law is followed, the petitioner's right to enjoy the property cannot be disturbed. No costs.

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(V.V.S.RAO, J)

14.12.2006
vs